
HOUSE BILL No. 1929

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1.

Synopsis: Hoosier homefield advantage investment tax credit. Establishes the Hoosier homefield advantage investment tax credit for businesses that have operations in Indiana that make a qualified investment to foster jobs and higher wages at a location in Indiana.

Effective: July 1, 2003.

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January 23, 2003, read first time and referred to Committee on Ways and Means.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1929

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-3.1-13-12 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) The economic
3 development for a growing economy board is established. The board
4 consists of the following seven (7) members:
5 (1) The director or, upon the director's designation, the executive
6 director of the department of commerce.
7 (2) The director of the budget agency.
8 (3) The commissioner of the department of state revenue.
9 (4) Four (4) members appointed by the governor, not more than
10 two (2) of whom may be members of the same political party.
11 (b) The director shall serve as chairperson of the board. Four (4)
12 members of the board constitute a quorum to transact and vote on the
13 business of the board.
14 (c) The department of commerce shall assist the board in carrying
15 out the board's duties under this chapter **and IC 6-3.1-25**.
16 SECTION 2. IC 6-3.1-13-26 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 26. (a) The economic



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development for a growing economy fund is established to be used exclusively for the purposes of this chapter **and IC 6-3.1-25**, including paying for the costs of administering this chapter **and IC 6-3.1-25**. The fund shall be administered by the department of commerce.

(b) The fund consists of collected fees, appropriations from the general assembly, and gifts and grants to the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) The money in the fund at the end of a state fiscal year does not revert to the state general fund but remains in the fund to be used exclusively for the purposes of this chapter. Expenditures from the fund are subject to appropriation by the general assembly and approval by the budget agency.

SECTION 3. IC 6-3.1-25 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 25. Hoosier Homefield Advantage Investment Tax Credit

Sec. 1. As used in this chapter, "base state tax liability" means a taxpayer's state tax liability in the taxable year immediately preceding the taxable year in which a taxpayer makes a qualified investment.

Sec. 2. As used in this chapter, "board" has the meaning set forth in IC 6-3.1-13-1.

Sec. 3. As used in this chapter, "director" has the meaning set forth in IC 6-3.1-13-3.

Sec. 4. As used in this chapter, "full-time employee" has the meaning set forth in IC 6-3.1-13-4.

Sec. 5. As used in this chapter, "highly compensated employee" has the meaning set forth in Section 414(q) of the Internal Revenue Code.

Sec. 6. As used in this chapter, "new employee" has the meaning set forth in IC 6-3.1-13-6.

Sec. 7. As used in this chapter, "pass through entity" means a:

- (1) corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) partnership;
- (3) trust;
- (4) limited liability company; or
- (5) limited liability partnership.



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1 **Sec. 8. (a)** As used in this chapter, "qualified investment" means
 2 the amount of the taxpayer's expenditures for:

3 (1) the purchase of new telecommunications, production,
 4 manufacturing, fabrication, assembly, extraction, mining,
 5 processing, refining, or finishing equipment;

6 (2) the purchase of new computers and related equipment;

7 (3) costs associated with the modernization of existing
 8 telecommunications, production, manufacturing, fabrication,
 9 assembly, extraction, mining, processing, refining, or finishing
 10 facilities;

11 (4) onsite infrastructure improvements;

12 (5) the construction of new telecommunications, production,
 13 manufacturing, fabrication, assembly, extraction, mining,
 14 processing, refining, or finishing facilities;

15 (6) costs associated with retooling existing machinery and
 16 equipment; and

17 (7) costs associated with the construction of special purpose
 18 buildings and foundations for use in the computer, software,
 19 biological sciences, or telecommunications industry;

20 that are certified by the board under this chapter as being eligible
 21 for the credit under this chapter.

22 (b) The term does not include property that can be readily
 23 moved outside Indiana.

24 **Sec. 9.** As used in this chapter, "state tax liability" means a
 25 taxpayer's total tax liability that is incurred under:

26 (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);

27 (2) IC 27-1-18-2 (the insurance premiums tax); and

28 (3) IC 6-5.5 (the financial institutions tax);

29 as computed after the application of the credits that under
 30 IC 6-3.1-1-2 are to be applied before the credit provided by this
 31 chapter.

32 **Sec. 10.** As used in this chapter, "state tax liability growth"
 33 means the difference between a taxpayer's state tax liability in a
 34 taxable year minus the greater of:

35 (1) the taxpayer's state tax liability in the most recent prior
 36 taxable year in which the taxpayer claimed part of a credit
 37 under this chapter; or

38 (2) the taxpayer's base state tax liability;

39 before the application of a credit under this chapter.

40 **Sec. 11.** As used in this chapter, "taxpayer" means an
 41 individual, a corporation, a partnership, or other entity that has
 42 state tax liability.

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1 **Sec. 12. The board may make credit awards under this chapter**
 2 **to foster job creation and higher wages in Indiana.**

3 **Sec. 13. A taxpayer that:**

4 (1) is awarded a tax credit under this chapter by the board;
 5 and

6 (2) complies with the conditions set forth in this chapter and
 7 the agreement entered into by the board and the taxpayer
 8 under this chapter;

9 **is entitled to a credit against the taxpayer's state tax liability in a**
 10 **taxable year.**

11 **Sec. 14. (a) The total amount of a tax credit claimed under this**
 12 **chapter equals thirty percent (30%) of the amount of a qualified**
 13 **investment made by the taxpayer in Indiana.**

14 **(b) In the taxable year in which a taxpayer makes a qualified**
 15 **investment, the taxpayer may claim a credit under this chapter in**
 16 **an amount equal to the lesser of:**

17 (1) thirty percent (30%) of the amount of the qualified
 18 investment; or

19 (2) the taxpayer's state tax liability growth.

20 **The taxpayer may carry forward any remainder.**

21 **Sec. 15. (a) A taxpayer may carry forward a remainder for not**
 22 **more than nine (9) consecutive taxable years beginning with the**
 23 **taxable year after the taxable year in which the taxpayer makes the**
 24 **qualified investment.**

25 **(b) The amount that a taxpayer may carry forward to a**
 26 **particular taxable year under this section equals the lesser of the**
 27 **following:**

28 (1) The taxpayer's state tax liability growth.

29 (2) The unused part of a credit allowed under this chapter.

30 **(c) A taxpayer may:**

31 (1) claim a tax credit under this chapter for a qualified
 32 investment; and

33 (2) carry forward a remainder for one (1) or more different
 34 qualified investments;

35 **in the same taxable year.**

36 **(d) The total amount of each tax credit claimed under this**
 37 **chapter may not exceed thirty percent (30%) of the qualified**
 38 **investment for which the tax credit is claimed.**

39 **Sec. 16. If a pass through entity does not have state tax liability**
 40 **growth against which the tax credit may be applied, a shareholder**
 41 **or partner of the pass through entity is entitled to a tax credit equal**
 42 **to:**

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(1) the tax credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder or partner is entitled.

Sec. 17. A person that proposes a project to create new jobs or increase wage levels in Indiana may apply to the board before the taxpayer makes the qualified investment to enter into an agreement for a tax credit under this chapter. The director shall prescribe the form of the application.

Sec. 18. After receipt of an application, the board may enter into an agreement with the applicant for a credit under this chapter if the board determines that all the following conditions exist:

(1) The applicant has conducted business in Indiana for at least one (1) year immediately preceding the date the application is received.

(2) The applicant's project will raise the total earnings of employees of the applicant in Indiana.

(3) The applicant's project is economically sound and will benefit the people of Indiana by increasing opportunities for employment and strengthening the economy of Indiana.

(4) Receiving the tax credit is a major factor in the applicant's decision to go forward with the project and not receiving the tax credit will result in the applicant not raising the total earnings of employees in Indiana.

(5) Awarding the tax credit will result in an overall positive fiscal impact to the state, as certified by the budget agency using the best available data.

(6) The credit is not prohibited by section 19 of this chapter.

(7) The average wage that will be paid by the taxpayer to its employees (excluding highly compensated employees) at the location after the credit is given will be at least equal to one hundred fifty percent (150%) of the hourly minimum wage under IC 22-2-2-4 or its equivalent.

Sec. 19. A person is not entitled to claim the credit provided by this chapter for any jobs that the person relocates from one (1) site in Indiana to another site in Indiana. Determinations under this section shall be made by the board.

Sec. 20. The board shall certify the amount of the qualified investment that is eligible for a credit under this chapter. In determining the credit amount that should be awarded, the board shall grant a credit only for the amount of the qualified investment that is directly related to expanding the workforce in Indiana.

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1 Sec. 21. The board shall enter into an agreement with an
 2 applicant that is awarded a credit under this chapter. The
 3 agreement must include all the following:

4 (1) A detailed description of the project that is the subject of
 5 the agreement.

6 (2) The first taxable year for which the credit may be claimed.

7 (3) The amount of the taxpayer's state tax liability for each
 8 tax in the taxable year of the taxpayer that immediately
 9 preceded the first taxable year in which the credit may be
 10 claimed.

11 (4) The maximum tax credit amount that will be allowed for
 12 each taxable year.

13 (5) A requirement that the taxpayer shall maintain operations
 14 at the project location for at least ten (10) years during the
 15 term that the tax credit is available.

16 (6) A specific method for determining the number of new
 17 employees employed during a taxable year who are
 18 performing jobs not previously performed by an employee.

19 (7) A requirement that the taxpayer shall annually report to
 20 the board the number of new employees who are performing
 21 jobs not previously performed by an employee, the average
 22 wage of the new employees, the average wage of all employees
 23 at the location where the qualified investment is made, and
 24 any other information the director needs to perform the
 25 director's duties under this chapter.

26 (8) A requirement that the director is authorized to verify
 27 with the appropriate state agencies the amounts reported
 28 under subdivision (7), and that after doing so shall issue a
 29 certificate to the taxpayer stating that the amounts have been
 30 verified.

31 (9) A requirement that the taxpayer shall pay an average
 32 wage to all its employees other than highly compensated
 33 employees in each taxable year that a tax credit is available
 34 that equals at least one hundred fifty percent (150%) of the
 35 hourly minimum wage under IC 22-2-2-4 or its equivalent.

36 (10) A requirement that the taxpayer will keep the qualified
 37 investment property that is the basis for the tax credit in
 38 Indiana for at least the lesser of its useful life for federal
 39 income tax purposes or ten (10) years.

40 (11) A requirement that the taxpayer will maintain at the
 41 location where the qualified investment is made during the
 42 term of the tax credit a total payroll that is at least equal to

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the payroll level that existed before the qualified investment was made.

(12) A requirement that the taxpayer shall provide written notification to the director and the board not more than thirty (30) days after the taxpayer makes or receives a proposal that would transfer the taxpayer's state tax liability obligations to a successor taxpayer.

(13) Any other performance conditions that the board determines are appropriate.

Sec. 22. A taxpayer claiming a credit under this chapter shall submit to the department of state revenue a copy of the director's certificate of verification under this chapter for the taxable year. However, failure to submit a copy of the certificate does not invalidate a claim for a credit.

Sec. 23. If the director determines that a taxpayer who has received a credit under this chapter is not complying with the requirements of the tax credit agreement or all the provisions of this chapter, the director shall, after giving the taxpayer an opportunity to explain the noncompliance, notify the department of commerce and the department of state revenue of the noncompliance and request an assessment. The department of state revenue, with the assistance of the director, shall state the amount of the assessment, which may not exceed the sum of any previously allowed credits under this chapter. After receiving the notice, the department of state revenue shall make an assessment against the taxpayer under IC 6-8.1.

Sec. 24. On or before March 31 each year, the director shall submit a report to the board on the tax credit program under this chapter. The report must include information on the number of agreements that were entered into under this chapter during the preceding calendar year, a description of the project that is the subject of each agreement, an update on the status of projects under agreements entered into before the preceding calendar year, and the sum of the credits awarded under this chapter. A copy of the report shall be delivered to the executive director of the legislative services agency for distribution to the members of the general assembly.

Sec. 25. On a biennial basis, the board shall provide for an evaluation of the tax credit program, giving first priority to using the Indiana economic development council established under IC 4-3-14. The evaluation must include an assessment of the effectiveness of the program in creating new jobs and increasing

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1 wages in Indiana and of the revenue impact of the program and
2 may include a review of the practices and experiences of other
3 states with similar programs. The director shall submit a report on
4 the evaluation to the governor, the president pro tempore of the
5 senate, and the speaker of the house of representatives after June
6 30 and before November 1 in each odd-numbered year.

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